

Appl. No. 10/757,932
Docket No. 14XZ124318/GEM-0129

REMARKS / ARGUMENTS

Status of Claims

Claims 1-40 are pending in the application. Claims 1-6, 13-15, 18-20, 23, 30 32-34, 37, 38 and 40 stand rejected. Claims 7-12, 16, 17, 21, 22, 24-29, 31, 35, 36 and 39 are objected to as being dependent upon a rejected claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's comments regarding the allowability of the noted claims. Applicant has amended Claims 1-4, 13 and 18-23, and has added new Claims 41-42, leaving Claims 1-42 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §112, first paragraph, and 35 U.S.C. §102(b), have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Objections to the Claims

Claims 18-23 are objected to for informalities relating to grammar.

Applicant has amended Claims 18-23 as suggested by the Examiner.

Accordingly, Applicant requests reconsideration and withdrawal of these objections.

Rejections Under 35 U.S.C. §112, First Paragraph

Claims 1-3, stand rejected under 35 U.S.C. §112, first paragraph, because the specification, while being enabling for x-ray radiation filtering systems, allegedly does not reasonably provide enablement for radiation filtering systems in general. The Examiner alleges that the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims, and that for example, the claims are not enabled for laser, gamma or neutron radiation.

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Appellant traverses this rejection for the following reasons.

With regard to enablement, the law does not require a specification to be a blueprint in order to satisfy the requirement for enablement under 35 U.S.C. §112, first paragraph. *Staehelin v. Secher*, 24 USPQ 2d 1513, 1516 (B.P.A.I. 1992) (citing *In re Gay*, 309 F.2d 769, 135 USPQ 311 (C.C.P.A. 1962)). It has been consistently held that the first paragraph of 35 USC 112 required nothing more than objective enablement... How such a teaching is set forth, whether by the use of illustrative examples or by broad descriptive terminology, is of no importance since a specification which teaches how to make and use the invention in terms which correspond in scope to the claim *must* be taken as complying with the first paragraph of 35 UC 112 *unless* there is reason to doubt the objective truth of the statements relied upon therein for enabling support. *Staehelin v. Secher*, 24 USPQ 2d 1513, 1516 (B.P.A.I. 1992) (citing *In re Marzocchi*, 439 F.2d 220, 169 USPQ 367 (C.C.P.A. 1971)) (emphasis in original).

With regard to scope of protection sought, the degree of enablement required of the specification must bear a *reasonable correlation* to the scope of protection sought by the claims. *In re Wright*, 999 F.2d 1557, 27 USPQ2d 1510, 1513 (CAFC 1993). The relevant inquiry may be summed up as being whether the scope of enablement provided to one of ordinary skill in the art by the disclosure is such as to be commensurate with the scope of protection sought by the claims. *In re Moore*, 169 USPQ 236 at 239 (CCPA 1971) (emphasis added).

Regarding Claim 1

Applicant has amended Claim 1 to now recite, inter alia,

"A radiation filtering system comprising:

a plurality of filtering plates of which a selected one or more of the plates can be ~~placed in a path of emitted radiation conveyed and oriented in a position for use...~~"

No new matter has been added as antecedent support may be found in the specification as originally filed, such as at Paragraph [0016-0021] for example.

Here, Applicant has removed the claimed limitation directed to emitted radiation, which the Examiner interprets broadly and to be inclusive of laser, gamma and neutron

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radiation, and submits that the preamble is now merely illustrative of an exemplary environment in which the claimed structure may be employed and therefore does not impart a limitation to the claimed structure.

At Paragraphs [0013-0023] and at Figures 1 and 2, Applicant describes and illustrates a filtration system comprising a set of filters held and conveyed by a roundabout distributor. Here, Applicant clearly and specifically describes the *structure of a filtration system*, suitable for filtering emitted radiation for example, which Applicant now claims in amended Claim 1.

At Paragraph [0027], Applicant states that the disclosed embodiment is merely an exemplary embodiment and not exclusive of other embodiments that would be recognized and appreciated by one skilled in the art of radiation filtration systems. For example, in the art of optical filtration systems, one skilled in that art would recognize that the claimed structure of Claim 1 could be used by replacing the x-ray filter plates with optical filter plates.

Accordingly, Applicant submits that the specification is commensurate in scope with the claimed structure of amended Claim 1.

Regarding Claims 2-3

Applicant has amended the claimed structure of Claims 2-3 to replace "emitted radiation" with "X-rays".

Accordingly, Applicant submits that the specification is now commensurate in scope with the claimed structure of Claims 2-3.

In view of the foregoing, Applicant respectfully submits that the specification provides general guidelines as to the scope of the invention such that one of ordinary skill in the art would know what was meant, and that the subject matter of the invention has been described and is supported in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention and provided an enabling disclosure thereof, and therefore

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respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §112, first paragraph, which Applicant considers to be traversed.

Rejections Under 35 U.S.C. §102(b)

Claims 1-6, 13-15, 18-20, 23, 30 32-34, 37, 38 and 40 stand rejected under 35 U.S.C. §102(b) as being anticipated by Vlasbloem et al. (U.S. Patent No. 4,984,258, hereinafter Vlasbloem).

Applicant traverses this rejection for the following reasons.

Applicant respectfully submits that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*" *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, "[t]he identical invention must be shown in as complete detail as is contained in the *** claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements "arranged as in the claim." *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Applicant has amended independent Claims 1-3 to now recite, inter alia,

"...means for causing a selection of one or more of the plates and allowing for continuous conveyance thereof..."

Applicant has amended independent Claim 4 to now recite, inter alia,

"...a set of filtration plates held by a distributor configured to allow continuous conveyance of the filtration plates..."

No new matter has been added as antecedent support may be found in the specification as originally filed, such as at Paragraph [0021] for example.

Dependent claims inherit all of the limitations of the respective parent claim.

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In comparing Vlasbloem with the instant invention, Applicant finds Vlasboem to be absent any disclosure of a set of filtration plates held by a distributor *configured to allow continuous conveyance of the filtration plates*, which is a structural attribute specifically claimed for in the instant invention.

Accordingly, Applicant submits that Vlasboem does not disclose all of the claimed elements arranged as in the claim, and absent anticipatory disclosure in Vlasboem of each and every element of the claimed invention arranged as in the claim, Vlasboem cannot be anticipatory.

Regarding Claim 6 Specifically

The Examiner alleges that Vlasboem anticipates the claimed invention including the joint comprising *a flexible strip* for connection between an edge of the filtration plate and an edge of an arm of the distributor, and looks to Column 1, lines 54-64, namely, within Dutch patent 8400845, for support thereof. (Paper 050205, page 3).

However, in making this allegation, the Examiner does not recite a specific anticipatory element found in Vlasboem or Dutch patent 8400845, and does not state with specificity where such an element may be found.

In comparing Vlasboem and Dutch patent 8400845 with the claimed invention, Applicant finds Vlasboem and Dutch patent 8400845 to be absent the *flexible strip* arranged as claimed, and the Examiner has not stated with specificity where such an element arranged as claimed may be found.

Applicant respectfully submits that a broad sweeping allegation that Vlasboem discloses *a flexible strip* without showing an actual disclosure of *a flexible strip*, arranged as claimed, is an improper use of Vlasboem for purposes of anticipation.

Regarding Claims 13-15 Specifically

The Examiner alleges that Vlasboem anticipates the claimed invention including the mechanism comprising *a ramp* so that the filtration plate rotates about its joint as a result of motion of the distributor, and looks to Vlasboem at the end of rod 6, for support thereof. (Paper 050205, page 3).

Applicant respectfully disagrees.

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At column 1 line 65 through column 2 line 6, Vlasboem discloses and teaches a connecting rod 6 that connects to a piston 7. Contrary to the Examiner's allegation, not only does Applicant find Vlasboem to be absent any disclosure of *a ramp* at the end of rod 6, but Applicant also finds Vlasboem to be absent any teaching of such *a ramp*, and the Examiner has not stated with specificity where such an element arranged as claimed may be found in Vlasboem.

Applicant respectfully submits that a broad sweeping allegation that Vlasboem discloses *the ramp* at the end of rod 6 without showing an actual disclosure of *a ramp* at the end of rod 6, arranged as claimed, is an improper use of Vlasboem for purposes of anticipation.

Regarding Claim 13 More Specifically

Applicant has amended Claim 13 to be rewritten in independent form including all limitations of the parent claim. No new matter has been added, and no limitations have been added or removed.

Accordingly, now independent Claim 13 claims the exact same invention as original dependent Claim 13 claimed, but in independent form.

In view of the amendment and foregoing remarks, Applicant submits that Vlasboem does not disclose each and every element of the claimed invention arranged as claimed and therefore cannot be anticipatory. Accordingly, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §102(b) have been traversed, and requests that the Examiner reconsider and withdraw of these rejections.

In light of the forgoing, Applicant respectfully submits that the Examiner's rejections under 35 U.S.C. §112, first paragraph, and 35 U.S.C. §102(b), have been traversed, and respectfully requests that the Examiner reconsider and withdraw these rejections.

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Regarding New Claims 41-42

Applicant has added new Claim 41, which is dependent on Claim 4, and which includes additional limitations that even more specifically describe subject matter regarded as the invention.

Applicant has also added new Claim 42, which is dependent on Claim 1, and which includes additional limitations that even more specifically describe subject matter regarded as the invention.

No new matter has been added by this amendment as antecedent support may be found in the specification as originally filed, such as at Paragraph [0016-0021] for example.

In view of the previous discussion relating to Claims 4 and 1, respectively, Applicant respectfully submits that Vlasboem does not disclose, teach or suggest the claimed invention arranged as claimed, and does not motivate one to arrive at the claimed invention.

Accordingly, Applicant submits that new Claim 41-42 are directed to allowable subject matter and respectfully requests entry and notice of allowance thereof.

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The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 50-2513.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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